

# Hastings Race and Poverty Law Journal

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Volume 3  
Number 2 *Spring 2006*

Article 2

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1-1-2006

## Immigration Panel

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### Recommended Citation

Richard Boswell, Catherine Tactaquin, Mark Silverman, and Joren Lyons, *Immigration Panel*, 3 HASTINGS RACE & POVERTY L.J. 141 (2006).

Available at: [https://repository.uchastings.edu/hastings\\_race\\_poverty\\_law\\_journal/vol3/iss2/2](https://repository.uchastings.edu/hastings_race_poverty_law_journal/vol3/iss2/2)

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# IMMIGRATION PANEL

RICHARD BOSWELL, CATHERINE TACTAQUIN, MARK SILVERMAN,  
JOREN LYONS, AND BILL ONG HING

PROFESSOR RICHARD BOSWELL: We are very fortunate here to have four really wonderful speakers who are very involved in many aspects of immigration law and policy, who will be talking about legalization of undocumented workers and its consequences as well as some of the related issues.

Our first speaker on my far physical right is Cathy Tactaquin, who is from the National Network for Immigrant and Refugee Rights. She is going to be framing these issues from a human rights perspective.

Our next speaker to her left is Mark Silverman, who is from the Immigrant Legal Resource Center. He is going to be talking about immigrant organizing for legalization and specifically about community organizing on immigration issues.

To his left is Professor Bill Ong Hing from UC Davis School of Law who will be talking about what we call “deporting our responsibilities” — basically the deportation of immigrants from the United States and its consequences.

And then finally, following up on Bill’s conversation with us on deportation, we will hear from Joren Lyons from the Asian Law Caucus who will be talking about “stories from the trenches” — basically the real-life stories and the real-life consequences of deportation.

So let me start and I will play a role that I am not used to playing, which is that of a police officer, only in terms of time. I’ll leave it to Cathy to open the discussion. Thank you.

MS. CATHERINE TACTAQUIN: Thank you and I appreciate being here. I came with one of my favorite quotes that I thought captures the period and the challenge before all of us. It is from Justice Thurgood Marshall, who said, “History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure.” I think I have

used this quote several times to capture the period after 9/11 and its particular impact on the rights of immigrants and the rapidity in which laws and policies have seemed to skim the rights of immigrants. Those constitutional rights, those civil rights, those human rights of immigrants, seem too extravagant to endure in the face of a national security threat.

I am just going to talk a little bit about the arena of international human rights and what it provides as a framework and as an avenue for us to use to look at the rights of immigrants, and in particular to look at the question of legalization. I think it is very appropriate. Oftentimes, in our discourse, there is confusion and uncertainty about how relevant international human rights are. There is certainly a lot of cynicism towards international protections and how relevant they are, especially in the context of the United States. It is interesting that in immigrant communities around the country, we find the discussion of international human rights to be a very relevant one, and one which people readily adopt and understand, especially more recent immigrants who come from countries in which the discussion of rights is taken up in the context of human rights. Often civil liberties and civil rights are fairly weak in their home countries, and the context of their sense of rights is correlated with their understanding of human rights. So for them, it is not a difficult issue to understand.

This is a very exciting era in which to look at the context of international human rights and its relevancy to migration. International laws and policies are catching up to the economic and political phenomena that have already taken place—the impact of globalization and the movement of people. I think the count now is about 165 million people in migration today, an incredible number and a number that has grown. That represents an increase of over 40 million people each year in migration just over the last decade. About twenty to 25 percent of those people are moving without documents. Another twenty percent may be refugees. Increasingly we are looking at women in migration and in many cases they are the majority migrant from a number of countries, which involves children migration.

The challenge out there is tremendous because in a fairly short period of time we have increased just the numbers of people who are in an extremely vulnerable situation, moving under uncertain conditions, often in economic uncertainty. These people are leaving situations where their lives may have been in danger, where they were already impoverished. They do not bring a lot of equities to a new country of residence. It is the responsibility of the international community to look at the protections for these people.

A discussion has been undertaken, especially over the last

couple of years, on the question of human security. It became especially relevant after 9/11. There is a proposal that instead of looking at a variety of national security frameworks as being a kind of a guidance to immigration policy and, certainly in the United States, national security considerations are very much framing immigration policy, we need to look at a question of human security. Basically, the standard in looking at the security and safety of all people involves a marriage of human rights and the protection of human needs. We need to move away from the preeminence of national frameworks and instead broaden the concept of security. The United Nations, various international agencies, and many human rights organizations, have begun to introduce this concept, but I think it is a framework that is still unknown and not much discussed here in the United States.

Phenomenally, there are new avenues to look at international human rights protections. At the United Nations level, within the Human Rights Commission, there is now the Special Rapporteur on migrants. This is a person in an office, receiving complaints of individuals, complaints of human rights violations of migrants, with the capacity to investigate and put a spotlight on particular cases of migrant abuses around the world. That is fairly new.

As you may know, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (International Convention) finally came into force a couple of years ago, with the minimum of twenty countries ratifying it. Only 28 countries to date have ratified it, which is not significant at all. Despite a desire for universal ratification, it is very clear that migrant receiving countries, like the United States, which just essentially said, "No Cathy, we will never ratify that," are resistant. Of course, that is where these protections are needed. Nonetheless, it is a useful tool to advocate for the rights of immigrants and to locate that in a human rights framework. What is especially useful about that is that it specifies that the rights of migrants should be applicable, regardless of their immigration status. So, indistinct of whether they are legal immigrants within a country or whether they have an irregular immigration status, immigrants do have a bottom line of rights and protections.

The International Labor Organization, last year, convened a special conference on immigration and is preparing a new multi-lateral but non-binding treaty on the rights of migrant workers as another step towards trying to bring many of the elements that are in the International Convention to the fore in different ways. The International Convention is fairly weak, because again only 28 countries have ratified it and they are mainly migrant-sending countries. There are other avenues in which agencies and

organizations are trying to codify these rights. This new treaty is one of those new ways.

There is an entity that has been functioning for the last year, and which will wrap up its work this year, the Global Commission on International Migration (Global Commission), which is a quasi-independent body of the United Nations that is composed of prominent human rights individuals, government representatives, and ex-officers of the World Bank. They have been conducting hearings and soliciting papers on critical issues of migration from around the world. Later this year, in October, the Global Commission will be preparing recommendations for the United Nations on various migration policies. It is an attempt to bring things up to speed with regards to migration. The meeting of the Americas will take place next month, in May, in Mexico City, and there will be a number of groups from the United States participating and coordinating with other non-governmental organizations within the Americas to also create a migrant community voice in those hearings. That is very important.

The United Nations will conduct a high dialogue on migration in December 2006. And again, this will be in New York in the General Assembly. It is an indication of the scope and scale and significance of the migration question at the international level as well as the extent to which many of the rights and frameworks are still undefined. That is the challenge. Those of us in the United States are in the belly of the beast, but we are also in a country that is very much a recipient of migrants and very influential on migration policy. Those of us who are advocates for migrant rights have a responsibility to intervene and interact in these international venues that are present. There is no time like the present; this is the time to be active and to work on that.

Thank you.

MR. MARK SILVERMAN: I am Mark from the Immigrant Legal Resource Center. It is a pleasure to be here. To my left is our founder, Bill Hing.

We are in a historic time: immigrants today are able to play a historic role that I do not think they have ever fully played in our history. I will defer to Bill, who is really an immigration history expert. But immigrants today can mount the political stage and help shape the immigration laws that often separate and so affect their families. Our task, as attorneys, as legal workers, as community organizers, as immigrants in immigrant-based organizations, especially in places like California, but throughout the United States, is to take the demographic reality that is emerging and convert it into political power.

Now what do we mean by legalization? Well, legalization, how many people have heard the term, legalization? How many have heard the term, amnesty? Amnesty, we used to use that term. A turning point was when the AFL-CIO, that before had been ambivalent at best and anti-immigrant at worst, embraced amnesty in 2000. That year they came out against sanctioning employers, which was really sanctioning those who hired undocumented immigrants and was really a sanction against the immigrants. But the anti-immigrants have now taken over the term amnesty, so we use the term, legalization. I am going to throw out another one—we need a registration program; not a registry program, for us immigration attorneys, but a registration program. We need to know who is living in this country. A registration program is critical to be able to combat terrorism; we need to know who is here. We want everyone to be registered and we want to bring them out of the, not the closet, but out of the shadows. Undocumented gay immigrants who are uncomfortable with their...well you know, they are often in the shadows, in the closet, but we are talking about just the shadows. Just on a raise of hands, how many people think that term, a registration program, might be effective in mainstream America?

What it would mean is that undocumented immigrants, immigrants who entered without status or entered with status and then overstayed their status, would be able to get permanent residency, permission to work here, permission to live here, permission to leave here and return. It is so sad, all these families—immigrants who have not been able to see their families in fifteen years. That is the number one political demand of mixed families. There are very few families in the United States of undocumented immigrants. There are loads of mixed families, mixed status families, with citizen children, undocumented parents, some legal residents. So that is the demand.

Now who are the key allies in this? I would say the number one ally is actually the Catholic Church, and although I am not exactly a 100 percent fan of the recently deceased pope, I did say at a church last Saturday—and I believe it—that he was one of the first mainstream, prominent figures in the world to come out for amnesty in 1999 or 1998, not counting people like us. He called for amnesty for international undocumented immigrants in the Jubilee Year of 2000. The Catholic Church does it for two reasons; one reason is because they care and the other is good marketing. Within a decade, half of the Catholics in the United States will be Latinos; 71 percent of the growth is Latinos.

The second group of allies includes unions, and the third group includes Latinos and other people from other immigrant

communities who are citizens. Fourth are various caucuses in congress and groups. The Black congress has been excellent, and so has the Latino caucus, Asian caucus, and others. Foreign governments, especially Mexico and El Salvador, and immigration practitioners are others.

Now here is a method that I would like to invite many of you to consider, not only for immigration law, but for other areas of law, and that is to use the giving of immigration knowledge or consultations on individual cases as a carrot to bring people to meetings, where they listen to immigration lawyers, but more importantly let's say, they listen to Bill who is an organizer in a church-based program. And Bill speaks first, before I speak. You all get tickets to get your consultations after the meeting. We have learned this from the Salvation Army; they have a very good method of organizing. They provide food, which is okay; but more importantly of course, they provide a sermon to save people's souls from internal damnation. They always provide the food after the sermon. So in these meetings, and we have been doing them this way, with organizing groups, for five years, everyone has to sit and listen to Bill first; a leader who is an immigrant himself from one of these groups, talk about fighting for a change in the law.

I am not going to really have time to go into it, but here is an outline of the presentation. I start with my personal story; I agree completely with Cathy, I got into this and human rights because my grandmother talked to me. I asked her, "Why did you come here grandma, from the Ukraine?" She started crying. This was fifty years after she came—in 1905 she came, so this is in the 1950s, I was about ten—and she started crying and told me about the *pogroms*, the government-sponsored massacres and riots against the Jews, and that is probably why I am standing here today. And I tell this story so that the immigrants could see why a guy, who is not Latino, is interested in what they are doing.

Finally—here is where you see the combination of mixing—giving advice on what people can do now. We advise people not to get fooled by this thing called cancellation of removal and listen to some crooked lawyer or some crooked consultant that will take your money, saying you can get your Green Card based on your time in the United States, because in nine out of ten cases, you cannot and you will get deported. That is the bad news. Then we go into the good news, which is legalization, for which you, you in the audience, need to do two things. First, you need to join together and join the group of Oakland community organizations to fight for new immigration laws. Secondly, you need to document your presence in the United States for when and if—and I think it is when—we win legalization.

Finally I would like to say, again, this is a very exciting time. I like to raise one other thing in our meetings (and this resonates not so much with the politically correct people like myself, but it resonates really well with immigrants)—we emphasize immigrant rights and responsibilities. Immigrants themselves grab on to that for a whole bunch of reasons. I think that is a key to reaching the American public; immigrant rights and responsibilities; learning English, playing by the rules, paying taxes, working, and studying, etc.

Thank you very much.

PROFESSOR BILL ONG HING: Thank you. I am going to turn the focus a little bit, in part back to the topic of the conference and in part to a different topic, which is deportation. But to tie it in to your theme of economic justice, the notion of deporting long-time permanent residents of the United States is the main topic of what I want to talk about. And if you know anything about crime and the criminal justice system in the United States, then you should begin to understand the link between economic justice, poverty, and deportation and I will try to make that link for you.

In part it begins with 1996 legislation under the Clinton Administration that eliminated the relief for deportation, what was then called Section 212(c) relief, which was a waiver for long-term permanent residents of the United States who had been convicted of what now is labeled aggravated felonies. And before 1996, if you were a long-term permanent resident of the United States and you were convicted of an aggravated felony, you could at least apply for discretionary relief; you could ask an immigration judge to consider equitable factors, consider whether or not you were rehabilitated, consider whether or not you were remorseful, what family members you had, that type of thing. In essence you received what one might call a fair hearing before an immigration judge, who could weigh those equities and whatever bad acts you had committed and determine whether or not you deserved an exercise of favorable discretion. That was thrown out the window in 1996. So after 1996, someone convicted of an aggravated felony no longer has that opportunity; the issue in your deportation case is whether or not you were convicted of the crime, period. And if the answer is yes, then you are deportable, with some very few exceptions.

So every day the United States deports people from all over the world, and perhaps most recently what came as a shock to Asian-American communities in particular, was that the United States had long been deporting people from Korea and Hong Kong and the Philippines. When I was a legal services attorney in Chinatown, I represented many gang members who were being deported back to



Hong Kong and at least you could apply for 212(c) relief. But in the last couple of years the United States government started deporting people to Cambodia and that came as a huge surprise because Cambodia is still predominantly a communist dominated country and the United States did not have diplomatic relations with Cambodia. But the State Department strong-armed Cambodia in the spring of 2002 into signing a repatriation agreement and all of a sudden, overnight, a potential 1,500 Cambodians, mostly young males, are deportable from the United States. And today, well over 100 have actually been deported back to Cambodia. That has come as a huge surprise.

When you think about it, what is it that might or might not bother you about this? Well most of these individuals were raised in the United States, entered the United States as young infants or toddlers; they came with their parents, fleeing the "killing fields." Most of them are products of the United States society. They came here, by definition they were refugees and by definition they were low income, poor. That is when you begin to make connections between poverty, other immigrant communities, and who gets deported. Well if you start looking at who gets deported from the United States, the vast majority are people of color. They are Latinos and they are Asian Americans that are getting deported from the United States, the vast majority. What you begin to realize is that not only is there a failure of the resettlement system for refugees, but there is a failure of the integration system of the United States. There is a failure of resettlement, integration, and finally. There is a failure of the criminal justice system in the United States. Because it does not take a conference like this, I hope, for you to know that we are incarcerating mostly poor people of color in the United States. And those people of color, yes, they are African American, but the numbers are growing in terms of Latinos and Asian-Americans. In fact, the fastest-growing population of the CYA, California Youth Authority in California, are Asian; that is the fastest-growing group and much of it has to do with gang issues and much of it has to do with other types of problems that are endemic to living in poor communities that are a reflection, a manifestation of the fact that people are made fun of when they are immigrants. Their parents are working to make a living, and the parents do not have the tools—they are not given the resources to deal with issues that their children are facing in the United States.

I am not being apologetic for the crimes that many of these individuals have been convicted of, but what I am reminding us is that our criminal justice system, to be honest with you, has not really ever been serious about rehabilitation; it is about incarceration. It is about three strikes, it is about mandatory

sentences. Because of mandatory sentences and the failure of no longer having indeterminate sentences, individuals in prison do not have the incentive often to better themselves. That is why in San Quentin, while it is the best example of an institution that actually provides education programs, still only about ten percent of the prison population actually takes advantage of the education system. Why? Because they have to do the time anyway; they do not get credit. And the parole system is broken in California as well.

So the problem of deporting immigrants from the United States—and I am not talking about people that are here undocumented, I am not talking about people who entered as adults, but I am talking about Latinos and Asians that entered as youths, who grew up here and are products of inner cities, are products of low income families and families that do not have tools to deal with the system—those families are not given the tools and the criminal justice system is failing to provide them with job training, failing to provide them with rehabilitation programs because the criminal justice system is stacked against any efforts to rehabilitate.

So when we think about reform—Mark talked about legalization—there is this huge area of reform that people are afraid of and that reform has to do with deportation reform; we have to recognize that we are deporting ourselves, we are deporting our families, we are deporting our souls because these individuals that we are deporting are a product of our failures as a society and our failures to stand up and take responsibility to help build communities instead of tearing them apart. Thanks.

MR. JOREN LYONS: I am going to build on what Bill has said, with specific reference to the very effective marketing and PR campaign that anti-immigrant members of Congress have carried out. We really have to give the credit for the all time marketing genius award to the person who coined the term, “aggravated felony.” Aggravated felonies were invented in 1988 as part of the Anti-Drug Abuse Act and initially included murder and drug trafficking—that is it. In 1990, the definition was expanded to include among other things, violent crimes and crimes such as theft and burglary, where a five-year prison sentence was imposed. It is a pretty hefty chunk of time; you do not normally get that for a first, or even a second offense in most states. They also added fraud offenses in which the amount of the loss is \$200,000 or more.

Now in 1996, Bill pointed out that they eliminated 212(c) relief, which was a form of relief for people who had held a Green Card for at least seven years by the time the government decided they wanted to try to deport them. They eliminated 212(c) relief and

replaced it with a weaker form of relief called Cancellation of Removal for Permanent Residents and said if you have an aggravated felony offense, you cannot apply for Cancellation of Removal. Now Bill mentioned that and significantly, what they did at the same time, the thing that has caused the crisis in many immigrant communities, particularly ones in low-income areas, where people are forced into criminal activity as they move in through their late-teens and early-20s—what they did was they lowered the threshold for crime to become an aggravated felony and said, "Okay, if you get a one-year sentence for battery or theft or burglary, you are an aggravated felon. And guess what, if it is a suspended sentence, it counts just the same as an actual sentence." So word filtered out very slowly to criminal defense attorneys and to judges and we get cases every month; somebody comes in and says, "Well, I pleaded to this offense and they gave me a 365-day suspended jail sentence and told me I would actually only have to serve two months of it. Now immigration has told me I am going to be deported because I am an aggravated felon. But this is weird because my offense was a misdemeanor, so how can it be an aggravated felony?" I say, "Well we need to go back and talk to your criminal defense attorney because they gave you some very bad advice." This is happening over and over and it is very confusing to people who work in the realm of criminal justice to be told that a misdemeanor offense, for criminal purposes, is an aggravated felony offense for immigration purposes. I can assure you that when somebody is weighing the consequences of whether to plead guilty or whether to accept a particular sentence, that the difference between spending eight months in jail versus nine months in jail versus twelve months in jail, is not as important to them as whether immigration is going to take them into custody and permanently remove them from the United States once they finish that eight or nine or twelve months in jail.

What happened in 1996 and what took full effect in 1998, when the new mandatory detention rules kicked in is that we have created a system in which it is one strike and you are out. It is perfectly possible to get a 365-day suspended sentence for a first offense if the judge is in the mood to frighten the person. It is perfectly possible to plead to something that is a misdemeanor under state law, that is an aggravated felony for immigration purposes, and it is perfectly possible to tear up your Green Card without knowing about it.

The situation got so acute that in 1999 or 2000 the Georgia Board of Pardons wrote a letter to the Judiciary Committee in Congress, I think they sent it to the House and the Senate Judiciary Committee, which has control of immigration matters, and said, "Look, you have got to back off from this. We are getting requests

for pardons for misdemeanors, which we normally do not even consider because the consequences of a misdemeanor are not much, and we are getting these requests for pardons because people are getting deported as aggravated felons for misdemeanors; and we think you have gone a little too far." And when the Georgia Board of Pardons stands up to Congress and says, "Look, enough is enough, calm down and ease off," you know you have got a problem.

Let me give you some examples. I have, in the past several months, had people who are aggravated felons for possession of a stolen car radio, with a two-year suspended prison state sentence. One case, in Nevada, one individual was an aggravated felon for stealing a car. That particular individual was born in Thailand, came to the U.S. when he was one, is now 21 and was entitled to a hearing, not about whether he was going to steal another car, not about whether he was going to straighten out and fly right, but about whether, if removed to Cambodia, where he has never been in his entire life, there was more than a 50 percent chance that somebody was going to seek to deliberately hurt him. The judge said he had not proven that. So that case is on appeal right now while his criminal attorney tries to go back and modify his sentence.

I will tell you, it is absolutely heartbreaking, in case after case after case, to have to sit down and explain to people that it does not matter how sorry you are, it does not matter how well you are doing on probation, it does not matter what is going to happen to your family, all the judge is legally allowed to look at is whether you, yourself, are specifically going to be targeted for harm in Cambodia, Vietnam, Laos, El Salvador, or wherever it is that the government is attempting to send you.

So to get back to my original point about marketing, what the government has done, and Congress specifically in 1996, was ramp up this concept of aggravated felony and the associated dehumanization of people who are convicted of crimes on that list. It is a broad list, it is an increasingly broad list and once you have placed something on the aggravated felony list and once you have said you are an aggravated felon criminal alien, it becomes really hard to muster public sympathy for that person; they become somehow less than a human being. They are an aggravated felon criminal alien and following 9/11, what we have seen is the increasing attempts in Congress to link alienage with national security issues. We saw it last fall in the post-9/11 commission in recommendations; in the Homeland Security Bill, the National Intelligence Reform Bill that emerged from the House was loaded with provisions to strip people of access to federal courts and deportation proceedings—to essentially do away with a lot of due

process rights that somehow survived the 1996 amendments.

They are attempting it again today with the Real ID Act, which is allegedly out there to prevent terrorists from harming the United States, but would actually strip many asylum applicants of their ability to effectively present their case to the asylum office and immigration judge or federal appeals court and would allow people to be deported from the United States while a federal court is reviewing the Justice Department's decision to deport that person. So we have seen an increasing level of assaults of immigrant rights and particularly in the case of permanent residents who become involved in criminal activity. We have seen an increasing level of assaults on their due process rights and on their ability to demonstrate rehabilitation, to demonstrate that they have learned from their mistakes and that they need to be here to care for their families.

I am going to close with a small success story. In certain cases where an offense was committed before 1996, and where the person pleaded guilty to it, the person is still entitled to a hearing on that. I had a client, last year—he is from Cambodia—who was taken into custody, held for deportation, and was allowed to make that application because of the timing of his conviction. He sat there. His entire family came and we had a dozen people in the courtroom. The mother of his young son came in, they told the judge he had missed his son's first birthday, he had missed his mother's 50th birthday, he spent his own 30th birthday in immigration detention while his case was going on. The mother of his child was threatened with eviction, the power was cut-off in their apartment and he got up and he said, "Judge, I am real sorry for what I did eight years ago, but you know, I cannot have my baby growing up with spoiled milk in the refrigerator because the power is cut-off because I am locked up and not at my job." And the judge took him at his word—this is the old-fashioned 212(c) hearing and because he was convicted before 1996, she took him at his word—and she allowed him that opportunity. He was released from custody that day, walked out of there with all of his family members and his son—it was the first time he was able to hold him—and is back at work and is determined not to get into that kind of situation again.

So our goal should be to re-humanize individuals. If we have to do that on case by case example, by highlighting success stories to chip away at this image of aggravated felon criminal aliens and turn them back into real people who have made real mistakes, and who have moved towards real rehabilitation, then that is what we are going to have to do because we are up against some pretty savvy and politically-astute enemies—we are up against a serious group of

people who have all the rhetoric on their side and they have done an excellent job of laying the groundwork. If we try to fight them inside that groundwork, we are going to lose. So we have to re-humanize people in the eyes of the public and in the eyes of Congress before we are going to make any progress towards restoring due process and restoring the ability to have a hearing on rehabilitation, on what will happen to the family.

PROFESSOR BOSWELL: I will ask the panel a question, and this relates to what you all have spoken about—legalization on one side and then deportation on the other side. My question really is what is: Given the political climate, given the times in which we are in, what do you think are some viable strategies in the way of political strategies for making some changes? Or what concrete changes would you propose, each of you, and what strategy of actually doing it?

MR. SILVERMAN: I think we need to learn from my mentor, Karl Rove. Apparently he started twenty years ago and said, "We need to build a movement." I think there are things that are going to take the long-term to win. Remember we have demographics on our side, increasingly, but that is not enough. So in the long-term, at meetings, community meetings, I say we are not going to win legalization this year. We need to plant the seeds now to have an orange tree in five years, to be able to harvest oranges. We probably need big sweeping immigration change. Politically, we need to get these big changes in deportation and aggravated felonies, if we have to keep them actually as felonies, as well as legalization. We need a different political climate in the country and, in particular, the Democrats have to have control of the House of Representatives. Not the Senate necessarily, or even the White House, but the House.

In the short term, and I am glad you asked this, first of all, we can defeat the Real ID Act. Also, in the short term we can win two things in this session of Congress, Ag Jobs, legalization for people working in the farms, and the DREAM Act. I really encourage you to get involved in the DREAM Act, which is for undocumented students who are going to university to get legal status. Those kids are the best spokespeople, much better than any of us, for immigrant rights. They are bilingual, bicultural, undocumented, even the anti-immigrants do not blame them. But I think it is building constituencies, the immigrants themselves, the key allies, and looking both short-term and also taking a longer ten and twenty-year view and building our strength in that way.

MS. TACTAQUIN: Yes, I agree with Mark that much of it is

planting the seeds, but I think we have to also keep in mind that the last significant legalization or amnesty program was twenty years ago and we have been planting seeds. The political context, and especially the administration and Congress, is critical.

Short-term, it is possible to get the DREAM Act. The DREAM Act may be introduced in the Senate this next week. Ag Jobs does have a chance. But what it also means is in the short-term, even if we look at those incremental pieces of a bigger pie, of a bigger program, we also have to kill Bush's proposal for a guest-worker program, as any model for legal work for immigrants. It has been very confusing because he has been proposing that he will legalize work for immigrants. Even within immigrant communities, there is a lot of confusion about what that means. If communities are faced with-and I think you have all heard about the news about the Minutemen down on the Arizona border, the vigilantes—so when you visit immigrant communities in Mexico, and people are faced with the prospect of having to cross a border without legal documents under those conditions, the prospect of crossing with a legal, temporary permit sounds pretty good.

This is a very complex issue, but in the end that Bush program is nothing but indentured servitude. It offers no hope, no prospect of stability, access to human rights for immigrant workers or their families; it is a dead-end route. So aside from pushing on the incremental pieces, things like the DREAM Act, I think if we can get public support for something like legal status for immigrant students, that would be a step forward in humanizing the picture of who their families are, who they are, what their future is, and what their roles in society are. Those incremental steps are important, not just because it might bring legal status to 400,000 students, but because it might help change the environment, help change the climate.

But we also need to beat back things like the Bush guest-worker proposal because that is put out there as the model and if it gains any more support, it will be a huge setback. We cannot allow that to take hold in any concrete way.

PROFESSOR HING: I agree with Cathy 100 percent, but I do want to point out that Bush's proposal has not even been written up yet formally, so everybody is sort of guessing what it is. It is based on his press releases, it is based on his speeches, and it is based on whatever spin the White House puts into it. It shows sort of the genius of the President and Karl Rove. I mean we discovered that there were geniuses in November, when he got re-elected because they were able to do it relatively easily, except for one state, right.

But the problem is that he put this back on the agenda, the President put this back on the agenda, this meaning some kind of legalization or immigration issue and he was able to position himself as being in the middle because the day after he announced his proposal for a guest-worker program, he was attacked by the right as granting amnesty, which of course it is not. The problem is that he has big business behind him because what big business wants is this pool of exploitable workers. The other problem is that he is not limiting it to agriculture; it is available to however many numbers he comes up with forever.

And if it passes, it will have such an impact on workers' rights in the United States because it will provide a perpetual pool of temporary workers that are exploitable if there are no protections that are attached to it. It is ongoing; even though somebody is coming in, someone else can come in next year for three to six years and the year after that, another person for three to six years. So you have got this ongoing pool of exploitable workers and it is beautiful from the employers' point of view because they can do whatever they want to with this group of workers. Of course, the AFL-CIO and other labor groups are opposed to it for those reasons. I am repeating what Cathy is saying, but I have to warn us. I am glad McCain and Kennedy are trying to come up with a compromise of their own; really, they have got to get that introduced right away. They have got to get their compromise introduced right away, because if they do not, Bush is going to introduce his.

Bush has had over a year now to actually put it into legislative action and he was just playing with us to help with the election and to help mollify Latinos in the United States. I am worried.

MR. SILVERMAN: When I said immigrants can play a historic role, immigrants, organized immigrants, with their allies can keep California from playing a xenophobic role. California has played the nasty, racist, xenophobic role at several times, including in 1882, the Chinese Exclusion Act. All these laws get passed in Congress because they are federal, but where did it come from? It came from San Francisco, it came from California, of course, excluding Chinese people, based on race, from immigrating to the United States. Now our states people had the acuity of course, to not pass this until after the Chinese had built the railroads and the levees that still protect us in the California Delta. In the 1930s, the Repatriation Act, the repatriation of Mexicans during the Great Depression, including those born U.S. citizens of Mexican heritage. Operation Wetback is what it was called by the federal government in the 1950s. Then this law that my colleagues have been so eloquently describing,



especially the IRAIRA,<sup>1</sup> in 1996 was a direct result of Proposition 187. I think, all immigrants, but Latinos will be the biggest core, with their allies, can forever defeat California from playing that role again. I really believe that.

MS. TACTAQUIN: There are really significant challenges to bringing about that level of political power though, within California or nationally. Latinos are not just one homogenous group in California, a state with different nationalities. It is very interesting where people come together and where they do not; it is a challenge. But what was really inspiring was that when you talked about values, what everyone across the board agrees on is that the values are dignity, justice, rights. These are very simple things and using them as a unifying tool is important.

This last year in California we had the first statewide collaboration to do civic participation in immigrant communities, which is amazing to do it among diverse communities. Even with over 100 community-based organizations working to do education, voter registration, participation, it is a daunting challenge to do that level of work. We do not think civic participation is just something for legal immigrants or for citizens—it is certainly for everyone. But there are still many challenges in being able to do that because of the language barriers and the cultural barriers. What does it mean if people are in mixed families? What if you have someone who is undocumented or someone who has legal status? Or a citizen? Even to come forward and register is daunting for fear of being exposed or exposing someone in your family. So these are a number of the things that have to be overcome.

In California this next month, there is an annual immigrant lobby day in Sacramento and over the years sometimes attendance has been in the thousands, though last year it was in the hundreds. But it is very inspiring. These are immigrant community folks, various nationalities that go to Sacramento, rally, visit legislators, and promote self-awareness and awareness with the legislators. For those of you here to participate in that, it would be really welcoming and inspiring to be part of that process. That is part of growing the empowerment of immigrant communities in California.

PROFESSOR BOSWELL: I think we have time for one more question. What is the big solution to the issue of undocumented persons?

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1. Illegal Immigration and Immigrant Responsibility Act of 1996.

MR. SILVERMAN: I am going to give really, in one minute, my four points.

One, legalization, for those working hard, paying taxes here. Two, a temporary worker program, but with a bridge to getting legal status. Three, increasing the number of family visas. These three ideas are for many people.

The fourth one that I think is key to add is economic international aid—economic development to the sending communities from Mexico and Central America. We have to have something to convince the American public that we are going to shut the door.

PROFESSOR HING: We should not be afraid of open borders.

PROFESSOR BOSWELL: Thank you very much.

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